

State of California
BOARD OF EQUALIZATION
DIESEL FUEL TAX REGULATIONS

Regulation 1420. SUPPLIER.

Reference: Sections 60003, 60004, 60006, 60007, 60008, 60009, 60010, 60011, 60012, 60013, 60015, 60021, 60022, 60023, 60029, 60030, 60031, 60032, 60033, 60035, 60050, 60051, 60052, 60053, 60054, 60055, 60059, 60060, 60061, 60062, 60131 and 60201, Revenue and Taxation Code.

(a) RETURNS. All suppliers must prepare and file returns with the Board to report tax on diesel fuel. Returns are due at the end of the month following the calendar month in which the diesel fuel was removed, entered, or sold, unless the Board requires that a return be filed for a different period. A terminal operator who also is a position holder in diesel fuel within the terminal or is jointly and severally liable for the tax is required to file both the terminal operator return and the supplier return.

(b) IMPOSITION OF TAX. Tax applies to each supplier as follows:

(1) **BLENDER.** A blender is required to pay the tax on the removal or sale of diesel fuel blended outside the bulk transfer/terminal system. The number of gallons of blended diesel fuel subject to the tax is the difference between the total number of gallons of blended diesel fuel removed or sold and the number of gallons of tax-paid diesel fuel used to produce the blended fuel.

(2) **ENTERER.**

(A) An enterer is required to pay the tax when the enterer imports diesel fuel into the state by means outside of the bulk transfer/terminal system.

(B) An enterer is required to pay the tax when the enterer removes or sells diesel fuel within a pipeline or terminal to an unlicensed person.

(C) An enterer is required to pay the tax when the entry is by bulk transfer and the enterer is not a licensed supplier.

(D) For purposes of proper imposition of tax, entry occurs when fuel is brought into the state, provided, however, that when entry is by bulk transfer, entry occurs as follows:

(1) When fuel is received at a marine terminal, entry occurs at the landside of the flange.

(2) When fuel is removed from a vessel in this state to a lighter for the purpose of lightering, entry occurs at the vessel side of the flange upon the removal of fuel from a vessel in this state to the lighter; provided, however, that if the lighter unloads or discharges the fuel at a marine terminal, then entry occurs at the land side of the flange as to the fuel received at the marine terminal. As used herein, "lightering" is the use of small, shallow-draft boats in transshipment to shore of oil or other fuel from a large, deep-draft vessel unable to dock at shore facilities because of shallow water. The small boats are called lighters.

(3) When fuel is removed from a vessel in this state to another vessel in this state, and the fuel is not unloaded or discharged at a marine terminal, then entry occurs when the fuel is brought into the state.

(3) **POSITION HOLDER.**

(A) A position holder that holds an inventory position in the diesel fuel as reflected on the records of the terminal operator is required to pay the tax when the diesel fuel is removed from the terminal rack.

(B) A position holder is required to pay the tax when the position holder removes or sells diesel fuel within or without the bulk transfer/terminal system to an unlicensed person.

Regulation 1420. (Continued)

(4) REFINER.

(A) A refiner is required to pay the tax when the diesel fuel is removed at a terminal rack located at a refinery.

(B) A refiner is required to pay the tax when the removal of diesel fuel is by bulk transfer (e.g., transfer by pipeline or vessel) and the refiner or the owner of the diesel fuel immediately before the removal is not a licensed supplier.

(C) A refiner is required to pay the tax when the refiner removes or sells diesel fuel within or without the bulk transfer/terminal system to an unlicensed person.

(5) TERMINAL OPERATOR. A terminal operator is jointly and severally liable for and may be required to pay the tax when the diesel fuel is removed at the rack if both subsections (A) and (B) below apply, or if subsection (C) applies:

(A) The position holder with respect to the diesel fuel is a person other than the terminal operator and is not a licensed supplier.

(B) The terminal operator is not a licensed supplier and either (i) does not have an unexpired notification certificate from the position holder as required by the Internal Revenue Service or (ii) has an unexpired notification certificate from the position holder, but has reason to believe or knows that any information in the certificate is false.

(C) The terminal operator provides any person with a bill of lading, shipping paper, or similar document which falsely indicates that the undyed or unmarked diesel fuel which is removed from the terminal is dyed or marked in accordance with the United States Environmental Protection Agency or the Internal Revenue Service requirements.

(6) THROUGHPUTTER. A throughputter is required to pay the tax when the throughputter removes or sells diesel fuel within or without the bulk transfer/terminal system to a person who is not a licensed supplier.

History Adopted December 9, 1998, effective March 31, 1999.

Amended March 27, 2002, effective July 11, 2002. In subdivision (a) deleted sentence "A supplier acting in more than one capacity as a supplier (for example, as a blender and enterer, or throughputter and position holder) may be required to file more than one return", since a supplier files only one tax return. Also deleted last sentence in (a) which refers to a separate throughputter return, because the requirement for a throughputter to file a separate return under Revenue and Taxation Code Section 60203 was repealed effective January 1, 2002. Added paragraphs (A), (B), (C), and (D)(1),(2), and (3) under Subdivision (b)(2) to further clarify imposition of tax on an enterer. Subdivision (b)(A)(4) was rewritten to refer to a terminal rack located at a refinery instead of a refinery rack.